IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, *ex rel*. MICHAEL R. MARINE Plaintiffs, v. HCA-THE HEALTHCARE COMPANY, AVENTURA MEDICAL CENTER, CEDARS MEDICAL CENTER, COLUMBIA HOSPITAL, COLUMBIA JFK MEDICAL CENTER, KENDALL REGIONAL MEDICAL CENTER, NORTHWEST MEDICAL CENTER, UNIVERSITY HOSPITAL AND MEDICAL CENTER, and WESTSIDE REGIONAL MEDICAL CENTER, Defendants.	Case No. 00 - 1845 (RCL) (Part of 01-MS-50 (RCL)) **AMENDED COMPLAINT OF THE UNITED STATES** False Claims Act, 31 U.S.C. §§ 3729, *et seq.*, and Common Law Causes of Action

For its complaint, the United States of America alleges as follows:

I. NATURE OF ACTION

1. The United States brings this action to recover treble damages and civil penalties under the False Claims Act, 31 U.S.C. § 3729-3733 and all available damages and other monetary relief under the common law or equitable theories of fraud, unjust enrichment, payment under mistake of fact, recoupment of overpayments and disgorgement of illegal profits.

2. These claims are based upon false and fraudulent claims and false statements defendants

made or caused to be made in hospital cost reports and claims submitted to Medicare regarding home

health costs incurred by the hospitals in the South Florida Division of HCA – The Healthcare Company from November 1994 through at least December 31, 1997.

3. The cost reports were false because defendants allocated home health costs incurred by one hospital, Cedars Medical Center, which Medicare would not pay because its home health costs exceeded the cost limit, to other hospitals that were below the costs limits, thereby causing Medicare to pay such costs.

4. The cost reports were also false because defendants claimed reimbursement for home health costs for costs which not related to, and were not allowable for, home health services.

5. The United States alleges that defendants knowingly and fraudulently concealed, or failed to disclose, or caused others to fail to disclose material information in Medicare cost reports filed by hospitals that HCA owned, operated, or managed, in contravention of the hospitals' certifications that each cost report "is a true, correct, and complete report prepared from the books and records of the provider in accordance with applicable instructions," as required by federal law and regulation. 42 C.F.R. § 413.24(f)(4)(iii).

6. As a result of defendants' false statements, false or fraudulent claims and false cost report submissions, defendants wrongfully obtained funds from Medicare which they knew they were not entitled to receive.

7. The causes of action alleged herein are timely brought on the basis of the filing of relator's complaint in this action and when an official of the United States with responsibility to act under the circumstances knew or could reasonably know the facts material to this right of action.

8. HCA and the United States have entered into a series of agreements under which HCA tolled and/or waived the statute of limitations and all related time-based defenses with respect

to claims and potential claims of the United States stated against HCA and all of the HCA affiliated entities named as defendants herein.

II. JURISDICTION

9. The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1345 and supplemental jurisdiction over the common law and equitable causes of action pursuant to 28 U.S.C. § 1367(a). The Court may exercise personal jurisdiction over the defendants pursuant to 31 U.S.C. § 3732(a) because at least one of the defendants to this resides or transacts business in the Southern District of Florida, the transferor Court, and because at least one of the agencies to whom defendants submitted false claims or caused false claims to be submitted maintains their headquarters in this District. Moreover, 28 U.S.C. § 1407 necessarily confers the jurisdiction of the transferor Court over the parties on this Court for this Multidistrict proceeding.

III. VENUE

10. Venue is proper in the Southern District of Florida, the transferor Court, under 31 U.S.C. § 3732 and 28 U.S.C. § 1391(b) and (c) because at least one of the defendants resides or transacts business in that District, and in this District pursuant to 28 U.S.C. § 1407 because this action has been consolidated in this District for pre-trial proceedings.

IV. PARTIES

11. The United States brings this action on behalf of the Department of Health and Human Services ("HHS"), and its agency, the Health Care Financing Administration ("HCFA"), which administers the Medicare program.

12. Relator Michael R. Marine is a resident of Ft. Lauderdale, Florida and a former

employee

of HCA. Marine was employed as Division Reimbursement Manager for the South Florida Division of HCA from July 1995 to July 1997.

13. Defendant HCA, formerly Columbia/HCA Healthcare Corporation, is a Delaware 14.corporation that currently operates 189 hospitals and ancillary health care facilities in at least thirty states, including approximately 46 in Florida. During the time period relevant to this complaint, HCA operated over 400 hospitals in at least thirty-five states, including approximately 60 in Florida. The company changed its name to HCA — The Healthcare Company on May 25, 2000.

15. Attached hereto as Ex. 1, and incorporated by reference herein, is a chart listing the "Hospital Defendants" to this action. The Hospital Defendants are eight hospitals in South Florida currently owned, operated or managed by HCA that submitted false claims for home health costs.

16. Attached hereto as Ex. 2 and incorporated herein by reference is a chart listing all hospitals whose cost reports are at issue in this action, including one which HCA no longer owns, that submitted false claims in cost reports during a period in which HCA owned the hospital, managed the hospital as general or managing partner, or is the successor in interest to the corporation that owned or operated the hospital during the relevant time period ("HCA Hospitals"). To the extent HCA's liability for the conduct of the hospital it no longer owns resides in other intermediate corporate entities, those entities will be identified in discovery and named as defendants to this action by amended complaint.

17. HCA is liable in this action for the conduct of its predecessors; of each subsidiary

between it and the hospitals and other entities it and its predecessors owned or operated as general or managing partner; and of the hospitals it and each of these predecessors owned or operated as general or managing partner. HCA is liable for that conduct directly, because it or its predecessors committed, participated in or caused the acts described herein, or derivatively, because it or its predecessors operated their various subsidiaries and hospitals as an alter ego of the parent corporations. The United States alleges, on information and belief, that HCA and its predecessors: (a) created separate legal entities through which they owned or operated hospitals and other health care providers while dominating and controlling them all, operating them in an integrated manner, and disregarding the subsidiary corporations' basic corporate form; (b) shared common ownership, board membership and management with their various subsidiaries, affiliates and hospitals; (c) shared corporate, group and divisional resources to perform operational, administrative, financial and reimbursement functions for their various subsidiaries, affiliates and hospitals; (d) precluded the subsidiaries and affiliates from conducting business except that which was directed by and in the interests of the ultimate parent corporation. The United States alleges, on information and belief, that HCA and its predecessors historically operated various subsidiaries and affiliates as mere shell corporations through which corporate directives flowed to hospitals, and profits and other revenue flowed from hospitals.

IV. FALSE CLAIMS ACT

18. The False Claims Act ("FCA") provides, in pertinent part that:

> (a) Any person who (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; (3)

> conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government;. . . or (7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,
>
> * * *
>
> is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person . . . .
>
> (b) For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

31 U.S.C. § 3729.

V. THE MEDICARE PROGRAM

19. In 1965, Congress enacted Title XVIII of the Social Security Act ("Medicare" or the "Medicare Program") to pay for the costs of certain healthcare services. Entitlement to Medicare is based on age, disability or affliction with end-stage renal disease. 42 U.S.C. §§ 426, 426A. Part A of the Medicare program authorizes payment for institutional care, including hospital, skilled nursing facility and home health care. 42 U.S.C. §§ 1395c-1395i-4. Most hospitals, including the HCA Hospitals, derive a substantial portion of their revenue from Medicare.

20. During the time period relevant to this complaint, Medicare reimbursed for home health services based on the reasonable cost of operating the home health agency, up to a pre-established limit. 42 U.S.C. §1395yy; 42 C.F.R. §413.30.

21. During the time period relevant to this complaint, Medicare did not reimburse HHAs

for costs in excess of the pre-established cost limit.

22. The HCA Hospitals all operated hospital-based home health agencies that were, during all times relevant to this complaint, reimbursed based on their costs up to the limits.

23. HHS is responsible for the administration and supervision of the Medicare program. HCFA, an agency of HHS, is directly responsible for the administration of the Medicare program.

24. To assist in the administration of Medicare Part A, HCFA contracts with "fiscal intermediaries" ("FIs"). 42 U.S.C. § 1395h. FIs typically are insurance companies that provide a variety of services, including processing and paying claims and auditing cost reports.

25. During the course of their fiscal year, hospitals submit claims to their assigned FIs for reimbursement for the services rendered to the Medicare beneficiaries that they treat. 42 C.F.R. §§ 413.1, 413.60, 413.64. Hospitals receive interim payments on these claims. Within a specified time after the end of the hospital's fiscal year, the hospital must submit its cost report to its FI so that the FI can make year-end adjustments to the interim payments, as needed. 42 C.F.R. § 413.20(b). Cost reports are the final claim that a hospital submits to its FI for items and services rendered to Medicare beneficiaries.

26. Cost reports contain extremely detailed financial information relating to the hospital and form the basis for a determination by Medicare whether the hospital is entitled to more reimbursement than already paid, or whether the hospital has been overpaid and must reimburse Medicare. 42 C.F.R. §§ 405.1803, 413.60 and 413.64(f)(1).

27. HCFA requires hospitals, as a prerequisite to payment by Medicare, to annually submit a form HCFA-2552, titled the "Hospital and Hospital Health Care Complex Cost Report".

28. Hospital-based home health agency costs are included within the hospital's cost

report. The home health agency is considered a subprovider of the hospital.

29. The HCA Hospitals whose cost reports are at issue in this action were, at all times relevant to this complaint, required to submit cost reports to their FIs.

30. Every hospital cost report contains a "Certification," which must be signed by the chief administrator of the hospital or a responsible designee of the administrator 42 C.F.R. § 413.24(f)(4).

31. HCFA requires every hospital to certify that the filed cost report is (1) truthful, i.e., that the cost information contained in the report is true and accurate, (2) correct, i.e., that the hospital is entitled to reimbursement for the reported costs in accordance with applicable instructions, and (3) complete, i.e., that the hospital cost report is based upon all of the provider's cost information pertaining to the determination of reasonable cost.

32. Each cost report prepared and submitted by HCA and the HCA Hospitals included a certification signed by the chief administrator or a responsible designee of the administrator, which states in pertinent part that:

> to the best of my knowledge and belief, it [the cost report] is a true, correct and complete statement prepared from the books and records of the provider in accordance with applicable instructions, except as noted.

HCFA Form 2552-94.

33. HCFA's Provider Reimbursement Manual ("PRM") contains instructions to hospitals and other Medicare Part A providers for the preparation of their cost reports.

34. Defendants were at all times relevant to this complaint, familiar with the Medicare law, regulations, instructions, and the PRM governing the preparation and submission of Medicare

cost reports.

35. In addition, if a hospital discovers errors and omissions in its claims submitted for reimbursement to Medicare (including its cost reports), it is required to disclose those matters to its FI. 42 U.S.C. § 1320a-7b(a)(3) creates a duty to disclose known errors in cost reports:

> Whoever . . . having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment . . . conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized . . . shall in the case of such a . . . concealment or failure . . . be guilty of a felony.

36. HCFA Form 2552 and HCFA's instructions for completing cost report forms require hospitals to collect and record cost data and patient utilization statistics in a manner designed to determine the true, reasonable, allowable cost that the hospital incurred to provide care to Medicare beneficiaries during the period covered by the report.

37. HCFA conditions the payment of Medicare funds during the year and at year-end on the truthfulness of the statements contained in the cost report and relies on this information in determining payments. 42 C.F.R. § 413.20(e); 413.24(f).

38. Shortly after receiving a year-end cost report, the FI makes a tentative settlement and payment on the cost report based on the data reported.

39. When the FI makes the final settlement of the cost report, it issues a written Notice of Amount of Program Reimbursement ("NPR"). 42 C.F.R. § 405.1803(a). The NPR either involves a determination that the provider must repay funds received from Medicare, or that Medicare owes the provider.

40. The cost reports submitted by the HCA Hospitals were prepared by persons employed

by HCA in the company's Reimbursement Department, Florida Office, located in Winter Park, Florida, with the assistance of hospital employees and South Florida Division officials including the Division Reimbursement Manager.

41. In a few cases, defendants contracted with consultants for the preparation of certain of the HCA Hospitals' cost reports. However, cost reports prepared by consultants were always reviewed by defendants' employees.

42. Cost reports submitted by the HCA Hospitals were, at all times material to this complaint, signed by defendants' employees, usually a hospital official and, in some cases a Reimbursement Department employee, who attested to the certification quoted in ¶ 31 above.

VI. THE HOME HEALTH RESOURCE CENTER COST MISALLOCATION

43. Beginning on or about October 22, 1994 and through approximately July 1998, HCA operated an office called the South Florida Regional Resource Center ("Resource Center").

44. The Resource Center provided intake and administrative support services to the HHAs of the HCA Hospitals.

45. The Resource Center provided the same intake and administrative support services to the Cedars' HHA as it did to the other HCA Hospitals' HHAs.

46. Cedars' HHA operated over the cost limits for cost report years ending December 31, 1994, 1995 and 1996.

47. Therefore, Cedars would not receive reimbursement from Medicare for costs it incurred in rendering home health services to Medicare beneficiaries that were in excess of the cost limits for the years 1994-1996.

48. At all times pertinent to this Complaint, the operating expenses incurred by the

Resource Center were charged to the books of defendant Northwest Regional Medical Center.

49. The Chief Financial Officers of Northwest Medical Center, Michael Scialdone from October 22, 1994 through approximately January 1996, and Don Jaffee from approximately February 1996 through the December 1996, were responsible for overseeing the billing of the expenses of the Resource Center to the HCA Hospitals which used the Resource Center.

50. At all times pertinent to this Complaint, the operating costs of the Resource Center were allocated to the HCA Hospitals that used the services of the Resource Center on a monthly basis with the exception of Cedars, which was not allocated a share of the operating costs of the Resource Center despite its use of the Resource Center.

51. Monthly journal entries and supporting information were sent to the Chief Financial Officers ("CFOs") of the HCA Hospitals instructing them on how to book their allocated share of the Resource Center costs. These entries and information were sent by the CFOs of Northwest, Michael Scialdone and Don Jaffee, and/or by HCA or Northwest employees including, but not limited to Patrick Connor, Controller of Northwest.

52. Copies of the monthly journal entries and supporting information for the Resource Center cost allocation that excluded Cedars which are referred to in ¶¶ 48-50 were also sent to the Division Reimbursement Manager for the South Florida Division, who was Kay Bowman from October 22, 1994 through mid-1995, and Michael Marine from July 1995 through July 1997.

53. On a monthly basis, Northwest accounting personnel, supervised by the CFO of Northwest, prepared statistics on the home health visits furnished by the HCA Hospitals that were administered and supported by the Resource Center. These statistics included:

(a) the number of home health visits provided by each of the HCA Hospitals except

Cedars;

(b) the total number of home health visits provided by the HCA Hospitals except Cedars; and

(c) the percentage of such visits attributable to each of the HCA Hospitals without counting Cedars' home health visits.

54. In addition, for at least several months during 1995, 1996, and 1997, Northwest accounting personnel, supervised by the CFO of Northwest, prepared statistics on the home health visits furnished by the HCA Hospitals that were administered and supported by the Resource Center which included home health visits provided by Cedars.

55. The Resource Center cost allocation to each hospital was calculated on a statistical basis using the HCA Hospitals' HHA visits in proportion to total visits, but excluding Cedars' HHA visits, which resulted in no allocation of Resource Center costs to Cedars.

56. On a few occasions in 1995, Northwest Medical Center's monthly journal entries notifying the HCA Hospitals of the Resource Center Allocation included allocations to Cedars based on the number of HHA visits Cedars had that month.

57. On or about October 10, 1995, Ralph Rolnick, an accountant at Cedars contacted Harley Sykes, Regional Director, Olsten Kimberly Quality Care (which managed the HCA Hospitals' HHAs) to express his concern regarding the allocations to Cedars.

58. Mr. Rolnick advised Mr. Sykes that the allocation was contrary to the agreement that Cedars was not to be charged this expense.

59. Mr. Sykes thereafter received confirmation from HCA that Cedars should not be charged for the Resource Center costs, and confirmed this in writing to Mr. Scialdone.

60. Thereafter, Mr. Scialdone directed Patrick Connor, Northwest's Controller, and Alisa Bert, Northwest's Chief Accountant, to correct the September 1995 allocation of costs to Cedars.

61. HCA management, including Jeff Crudele, Division Chief Financial Officer for the South Florida Division, determined not to allocate a share of Resource Center costs to Cedars.

62. Upon information and belief, Cedars was not allocated a share of Resource Center costs because it would not be able to recover those costs from Medicare through its cost reports since its HHA was over the cost limits.

63. As a result of the conduct alleged above, the Resource Center costs that should have been allocated to Cedars were instead allocated to the other HCA Hospitals.

64. The HCA Hospitals (with the exception of Cedars) included the Resource Center costs allocated to them in their Medicare cost reports as home health costs, thus inflating the home health costs that each of the HCA Hospitals claimed from Medicare by the inclusion of costs that should have been allocated to Cedars.

65. Upon information and belief, HCA and the HCA Hospitals did not disclose the existence of the Resource Center to the FIs for the HCA Hospitals.

66. As a result of the conduct alleged above, the HCA Hospitals submitted false claims for reimbursement of home health costs in the cost reports identified in Ex. 2. The cost reports for all of the HCA Hospitals except Cedars falsely claimed reimbursement for Cedars' share of the Resource Center costs.

67. The United States was damaged because of the acts of defendants in submitting or causing to be submitted false or fraudulent claims, statements and records in that Medicare was forced to reimburse the HCA Hospitals (except Cedars) for Cedars' share of the costs of the

Resource Center to which reimbursement the other HCA Hospitals were not entitled. This reimbursement occurred through tentative settlements, increased interim payment rates, and the issuance of NPRs.

FIRST CAUSE OF ACTION

(False Claims Act: Presentation of False Claims)
(31 U.S.C. § 3729(a)(1))
(All Defendants)

68. Plaintiff repeats and realleges each allegation in ¶¶1 through 66, as if fully set forth herein.

69. Defendants knowingly presented or caused to be presented false or fraudulent claims for payment or approval to the United States.

70. By virtue of the false or fraudulent claims made by the defendants, the United States suffered damages and therefore is entitled to treble damages under the False Claims Act, to be determined at trial, plus a civil penalty of $5,000 to $10,000 for each violation.

SECOND CAUSE OF ACTION

(False Claims Act: Making or Using False Record or Statement)
(31 U.S.C. § 3729 (a)(2))
(All Defendants)

71. Plaintiff repeats and realleges each allegation in ¶¶ 1 through 66, as if fully set forth herein.

72. Defendants knowingly made, used, or caused to be made or used, false records or statements to get false or fraudulent claims paid or approved by the United States.

73. By virtue of the false records or statements made by the defendants, the United

States suffered damages and therefore is entitled to treble damages under the False Claims Act, to be determined at trial, plus a civil penalty of $5,000 to $10,000 for each violation.

THIRD CAUSE OF ACTION

(False Claims Act: Reverse False Claims)
(31 U.S.C. § 3729(a)(7))
(All Defendants Except Cedars Medical Center)

74. Plaintiff repeats and realleges each allegation in ¶¶ 1 through 66, as if fully set forth herein.

75. All defendants except Cedars Medical Center knowingly made, used or caused to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the United States.

76. By virtue of the false records or statements made by the defendants, the United States suffered damages and therefore is entitled to treble damages under the False Claims Act, to be determined at trial, plus a civil penalty of $5,000 to $10,000 for each violation.

FOURTH CAUSE OF ACTION

(Unjust Enrichment)
(All Defendants Except Cedars Medical Center)

77. Plaintiff repeats and realleges each allegation in ¶¶ 1 through 66, as if fully set forth herein.

78. By directly or indirectly obtaining Government funds to which they were not entitled, all defendants except Cedars Medical Center were unjustly enriched, and are liable to account and pay such amounts, or the proceeds therefrom, which are to be determined at trial, to the United States.

FIFTH CAUSE OF ACTION

(Payment By Mistake)
(All Defendants Except Cedars Medical Center)

79. Plaintiff repeats and realleges each allegation in ¶¶ 1 through 66, as if fully set forth herein.

80. This is a claim for the recovery of monies paid by the United States to the HCA Hospitals except Cedars Medical Center by mistake.

81. The United States, acting in reasonable reliance on the accuracy and truthfulness of the information contained in the cost reports submitted by HCA and the HCA Hospitals, paid the Hospital Defendants (except Cedars Medical Center) and the other HCA Hospital identified in Ex. 2 certain sums of money to which they were not entitled, and HCA and the Hospital Defendants except Cedars Medical Center are thus liable to account and pay such amounts, which are to be determined at trial, to the United States.

SIXTH CAUSE OF ACTION

(Disgorgement of Illegal Profits)
(All Defendants Except Cedars Medical Center)

82. Plaintiff United States repeats and realleges each allegation in ¶¶ 1 through 66, as if fully set forth herein.

83. By this claim, the United States requests a full accounting of all revenues (and interest thereon) and costs incurred by the Medicare program as a result of defendants' actions as alleged herein, disgorgement of all profits obtained by HCA and the Hospital Defendants except Cedars Medical Center through the submission of inflated cost reports, and/or imposition of a constructive trust in favor of the United States upon those profits.

84. All defendants except Cedars Medical Center made such false, fictitious or fraudulent statements, reports and claims to the United States to obtain illegal profits from the Medicare program, and equity requires the disgorgement of such profits and their payment to the United States.

SEVENTH CAUSE OF ACTION

(Common Law Fraud)
(All Defendants)

85. Plaintiff repeats and realleges each allegation in ¶¶ 1 through 66, as if fully set forth herein.

86. HCA and the Hospital Defendants made material and false representations in the cost reports submitted by the HCA Hospitals with knowledge of their falsity or reckless disregard for their truth, with the intention that the Government act upon the misrepresentations to its detriment. The Government acted in justifiable reliance upon these misrepresentations by settling the Hospital Defendants' and the other HCA Hospital's cost reports at an inflated amount and/or making tentative settlements or interim payments based on the inflated amounts.

87. Had the true facts been known to plaintiff, all defendants except Cedars Medical Center would not have received payment of the inflated amounts.

88. By reason of its inflated payments, plaintiff has been damaged in an as yet undetermined amount.

EIGHTH CAUSE OF ACTION

(Common Law Recoupment)
(All Defendants Expcept Cedars Medical Center)

89. Plaintiff repeats and realleges each allegation in ¶¶ 1 through 66, as if fully set forth herein.

90. This is a claim for common law recoupment, for the recovery of monies unlawfully paid by the United States to the Hospital Defendants (except Cedars Medical Center) and the other HCA Hospital contrary to statute or regulation.

91. The United States paid the Hospital Defendants except Cedars Medical Center and the other HCA Hospital certain sums of money to which they were not entitled, and HCA and the Hospital Defendants are thus liable under the common law of recoupment to account and return such amounts, which are to be determined at trial, to the United States.

PRAYER FOR RELIEF

WHEREFORE, the United States demands and prays that judgment be entered in favor of them as follows:

1. On the First, Second, and Third Causes of Action under the False Claims Act, as amended, for the amount of the United States' damages, multiplied as required by law, and such civil penalties as are required by law, together with all such further relief as may be just and proper.

2. On the Fourth, Fifth, and Eighth Causes of Action, for unjust enrichment, payment by mistake, and common law recoupment, for the damages sustained and/or amounts by which all defendants except Cedars Medical Center were unjustly enriched or by which

defendants retained illegally obtained monies, plus interest, costs, and expenses, and such further relief as may be just and proper.

3. On the Sixth Cause of Action, for disgorgement of illegal profits, for an accounting of all revenues unlawfully obtained by all defendants except Cedars Medical Center, the imposition of a constructive trust upon such revenues, and the disgorgement of the illegal profits obtained by defendants and such further equitable relief as may be just and proper.

4. On the Seventh Cause of Action, for common law fraud, for compensatory and punitive damages in an undetermined amount, together with costs and interest, and for such further relief as may be just and proper.

Respectfully submitted,

STUART E. SCHIFFER
Acting Assistant Attorney General
Civil Division

GUY A. LEWIS
United States Attorney for the
Southern District of Florida

KENNETH L. WAINSTEIN, DC Bar #451058
United States Attorney for the
District of Columbia

LISA HU BARQUIST
Assistant United States Attorney
99 N.E. Fourth Street
Miami, Florida 33132
Tel: (305) 961-9338

MARK E. NAGLE, DC Bar #416364
DORIS D. COLES-HUFF, DC Bar #461437
555 4th Street, N.W.
Washington, D.C. 20001
Tel: (202) 514-7170

MICHAEL F. HERTZ, DC Bar #965780
JOYCE R. BRANDA, DC Bar #246363
MARIE V. O'CONNELL, DC Bar # 417236
VANESSA I. REED, DC Bar #444474
ANDY J. MAO, PA Bar # 82986
Attorneys, Department of Justice
Civil Division
Post Office Box 261
Ben Franklin Station
Washington, DC 20044
Tel: (202) 514-6833
Fax: (202) 305-7868

May 7, 2001